

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**GLOBAL INDUSTRIES HOLDINGS, LTD., a)
Bahamian limited liability company,)
Plaintiff,) No. 08 C 2018
v.) Judge Joan H. Lefkow
MEIJER, INC.,) Magistrate Susan E. Cox
Defendant.)**

ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT FOR PATENT INFRINGEMENT

Defendant, MEIJER, INC. (“Meijer”), by and through its attorneys, QUERREY & HARROW, LTD., states as follows in answer to the Complaint for Patent Infringement:

1. Plaintiff, Global Industries Holdings, Ltd. (“Global”) is a Bahamian limited liability company with its principal office in Northfield, Illinois.

Answer: Meijer admits the allegations contained in paragraph 1.

2. Defendant, Meijer, Inc. (“Meijer”) is a Michigan corporation with a principal office in Grand Rapids, Michigan.

Answer: Meijer admits the allegations contained in paragraph 2.

3. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a) and (b).

Answer: Meijer admits the allegations contained in paragraph 3.

4. Venue is proper in this district pursuant to 38 U.S.C. §1391(b)(c) and §1400(b). Meijer maintains retail stores in this district where it features, promotes, and sells its products in the State of Illinois. Meijer transacts business nationwide in a continuous and systematic manner with a number of customers located in this judicial district. Meijer has purposefully availed itself of the privilege of conducting business in this district.

Answer: Meijer admits the allegations contained in paragraph 4.

5. The Court has jurisdiction over Meijer for the reasons set forth above and for the reason that Meijer conducts business within, and maintains at least minimum contacts with, the State of Illinois and this judicial district.

Answer: Meijer admits the allegations contained in paragraph 5.

COUNT I
(Claim For Patent Infringement)

6. Global is the owner of U.S. Patent No. 6,692,037 ("037 Patent"), issued by the U.S. Patent and Trademark Office on February 17, 2004 (the "Global Patent"). See, 037 Patent, attached as Exhibit 1.

Answer: Meijer admits the allegations contained in paragraph 6.

7. The 037 Patent is directed to a flat water hose with a plurality of water passages arranged in parallel and extended through two distal ends of the body of the flat cross section thereof and two hose connections related thereto.

Answer: Meijer neither admits nor denies the allegations contained in paragraph 7 because said allegations paraphrase or summarize the claims made in the 037 Patent which speak for themselves.

8. Under 35 U.S.C. § 271(a), infringement occurs whenever a party makes, uses, offers to sell, or sells a patented invention. In its pertinent part, Section 271(a) provides as follows:

Except as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent. 35 U.S.C.A. § 271 (a).

Answer: Meijer neither admits nor denies the allegations contained in paragraph 8 because said allegations paraphrase or summarize a statute which speaks for itself.

9. Meijer directly infringed, induced infringement by others, and/or contributorily infringed at least one claim of the 037 Patent by making, using, offering to sell, selling in the United States, and/or importing the infringing product into the United States.

Answer: Meijer denies the allegations contained in paragraph 9.

10. Global has provided actual notice of the 037 Patent and Meijer's infringement thereof.

Answer: Meijer admits that it received notice from Global but denies that the notice is effective since Meijer has not infringed nor has it induced infringement of others on any claims contained in the 037 Patent.

11. Meijer's infringement has been willful and wanton.

Answer: Meijer denies the allegations contained in paragraph 11.

12. Global has complied with the notice requirements of 35 U.S.C. § 287 for the 037 Patent.

Answer: Meijer has insufficient information with which to form a belief as to the truth of the allegations contained in paragraph 12 and therefore denies the same and demands strict proof thereof.

13. Global does not possess an adequate remedy at law. An adequate remedy of law will not cause Meijer to discontinue any future sale of the infringing item.

Answer: Meijer denies the allegations contained in paragraph 13.

14. Global has been damaged by Meijer's infringement and will suffer irreparable injury unless the Court enjoins Meijer from any future infringement.

Answer: Meijer denies the allegations contained in paragraph 14.

15. Pursuant to 35 U.S.C. §§ 271, 281, and 284, Global seeks an award of damages in an amount to be determined by the trier of fact.

Answer: Meijer admits that Global seeks an award of damages but denies that Global is entitled to damages.

16. Pursuant to 35 U.S.C. § 283, Global also requests the Court to enjoin Meijer and its affiliates from continuing to infringe the 037 Patent.

Answer: Meijer admits that Global seeks injunctive relief but denies that Global is entitled to such relief.

17. Meijer's infringement of the 037 Patent has been, and is, willful, deliberate, and intentional, thus warranting the assessment of increased damages and attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

Answer: Meijer denies the allegations contained in paragraph 17.

WHEREFORE, Meijer, Inc. prays as follows:

- A. That the Complaint be dismissed with prejudice; and
- B. For such other and further relief as this Court deems just and proper.

AFFIRMATIVE DEFENSES

Defendant, MEIJER, INC. ("Meijer"), by and through its attorneys, QUERREY & HARROW, LTD., states as follows as affirmative defenses to the Complaint for Patent Infringement:

First Affirmative Defense
Non-infringement

1. On or about November 23, 2004, the United States Patent Office issued Patent Number 498,825 ("825 Patent") to Huong Huong Fu, a copy of which is attached hereto as Affirmative Defense Exhibit 1.

2. Huong Huong Fu has applied for a patent for a combination of hose and hose connector with the United States Patent Office, Application Number 2005/0077729 ("729 Application"), a copy of which is attached hereto as Affirmative Defense Exhibit 2.

3. The goods being sold by Meijer are manufactured by Green King Garden Tool Co, Ltd. pursuant to the 825 Patent and the 729 Application and not the 037 Patent.

4. The 825 Patent and the 729 Application do not infringe upon the claims made in the 037 Patent.

5. Therefore, the goods being sold by Meijer do not infringe on the 037 Patent.

Second Affirmative Defense
Invalidity Due to Prior Art

6. The claims related to the hose in the 037 Patent were described in a printed publication more than one year prior to the date of the application for the 037 Patent, all as is more fully set forth in Affirmative Defense Exhibit 3 attached hereto.

7. Affirmative Defense Exhibit 3 represents material prior art which invalidates claims relating to the hose in the 037 Patent.

8. Pursuant to 35 U.S.C. §102(b), a person is not entitled to a patent if the invention was described in a printed publication prior to more than one year from the date of the patent application.

Third Affirmative Defense
Inequitable Conduct

9. Meijer realleges paragraphs 6 through 8 of the Second Affirmative Defense as paragraph 9 of the Third Affirmative Defense.

10. During the prosecution of the 037 Patent, the applicant and the attorneys or agents acting on his behalf, knew or should have known of the prior art and its materiality to the 037 Patent.

11. The applicant for the 037 Patent failed to disclose the prior art to the United States Patent Office with the intent to mislead.

12. Therefore, the 037 Patent is unenforceable due to inequitable conduct by Global and others involved in the prosecution of the 037 Patent.

Fourth Affirmative Defense
Patent Misuse/Unclean Hands

13. Meijer realleges paragraphs 1 through 12 of the First, Second and Third Affirmative Defenses as paragraph 13 of the Fourth Affirmative Defense.

14. Global Industries knew or should have known that the 037 Patent was invalid and unenforceable or extremely limited due to prior art.

15. Global Industries knew or should have known that it was impermissibly expanding the scope of the 037 Patent by attempting to enforce it against Meijer.

16. By reason thereof, Global is barred from any and all relief against Meijer.

WHEREFORE, Meijer, Inc. prays as follows:

- A. That the Complaint be dismissed with prejudice; and
- B. For such other and further relief as this Court deems just and proper.

MEIJER, INC.

By: /s/ Beverly A. Berneman
Beverly A. Berneman

QUERREY & HARROW, LTD.
Attorneys for Meijer Inc.
175 West Jackson Boulevard, Suite 1600
Chicago, Illinois 60604
312-540-7000



US00D498825S

(12) United States Design Patent **(10) Patent No.:** **US D498,825 S**
Fu **(45) Date of Patent:** **** Nov. 23, 2004**

(54) HOSE

(76) Inventor: **Huong Huong Fu**, No. 22 Lane 1, Sec 3, Chang-Nan RD., Jin-Fin Tsun, Fen-Yuan Hsiang, Chang-Hua Hsiang (TW)

(**) Term: **14 Years**

(21) Appl. No.: **29/189,694**

(22) Filed: **Sep. 8, 2003**

(51) LOC (7) Cl. **23-01**

(52) U.S. Cl. **D23/266**

(58) Field of Search **D23/266; 138/118, 138/118.1, 126, 128, 157; 285/124.1, 124.5**

References Cited**U.S. PATENT DOCUMENTS**

D34,968 S	*	8/1901	McRoy	.....	D23/266
2,798,745 A	*	7/1957	Nelson	.....	285/148.13
D475,439 S	*	6/2003	Lin	.....	D23/266
6,692,037 B1	*	2/2004	Lin	.....	285/124.1
D488,545 S	*	4/2004	Takamatu	.....	D23/266

* cited by examiner

Primary Examiner—Robin V. Taylor

(74) Attorney, Agent, or Firm—Charles E. Baxley

(57) CLAIM

The ornamental design for a hose, as shown and described.

DESCRIPTION

FIG. 1 is a front-left-top perspective view of a hose, showing my new design;

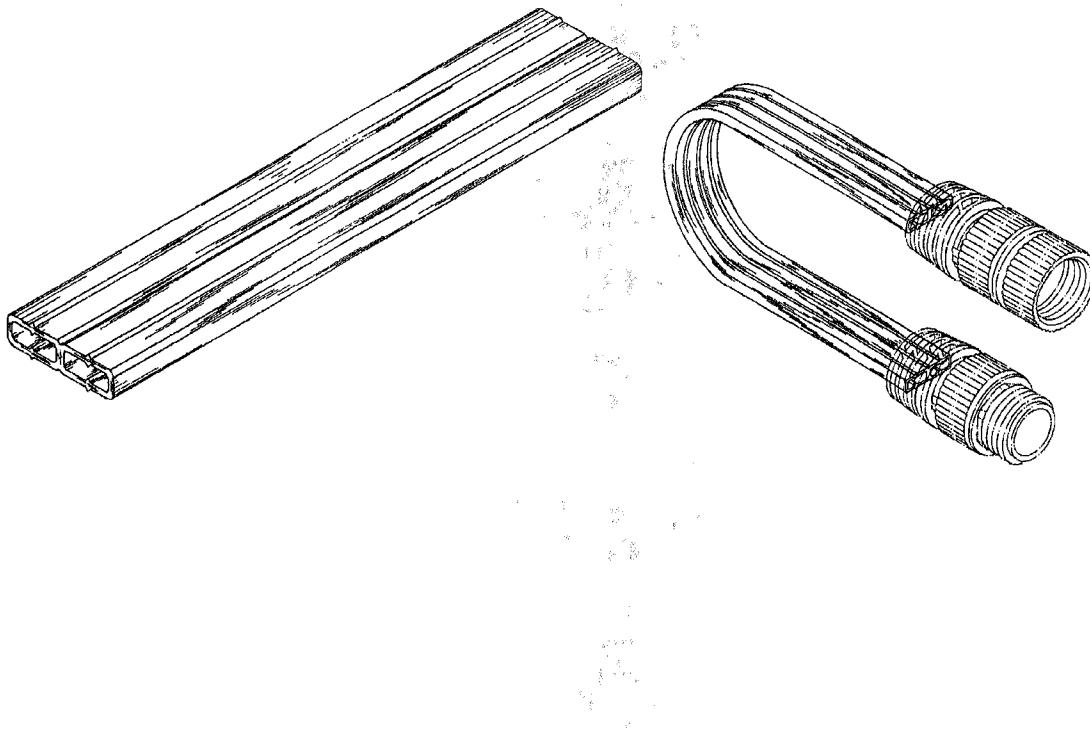
FIG. 2 is a front elevational view thereof (the rear elevational view being a mirror image thereof);

FIG. 3 is a left side view thereof (the right side view being a mirror image thereof);

FIG. 4 is a top plan view thereof (the bottom plan view being a mirror image thereof); and,

FIG. 5 is a perspective view of the hose of my new design which is bent into U shape and two connectors are to be connected to two ends of the hose of my new design, the broken line drawing of the two connectors is for illustrative purposes only and forms no part of the claimed design.

1 Claim, 4 Drawing Sheets



Affirmative Defense
Exhibit 1

U.S. Patent

Nov. 23, 2004

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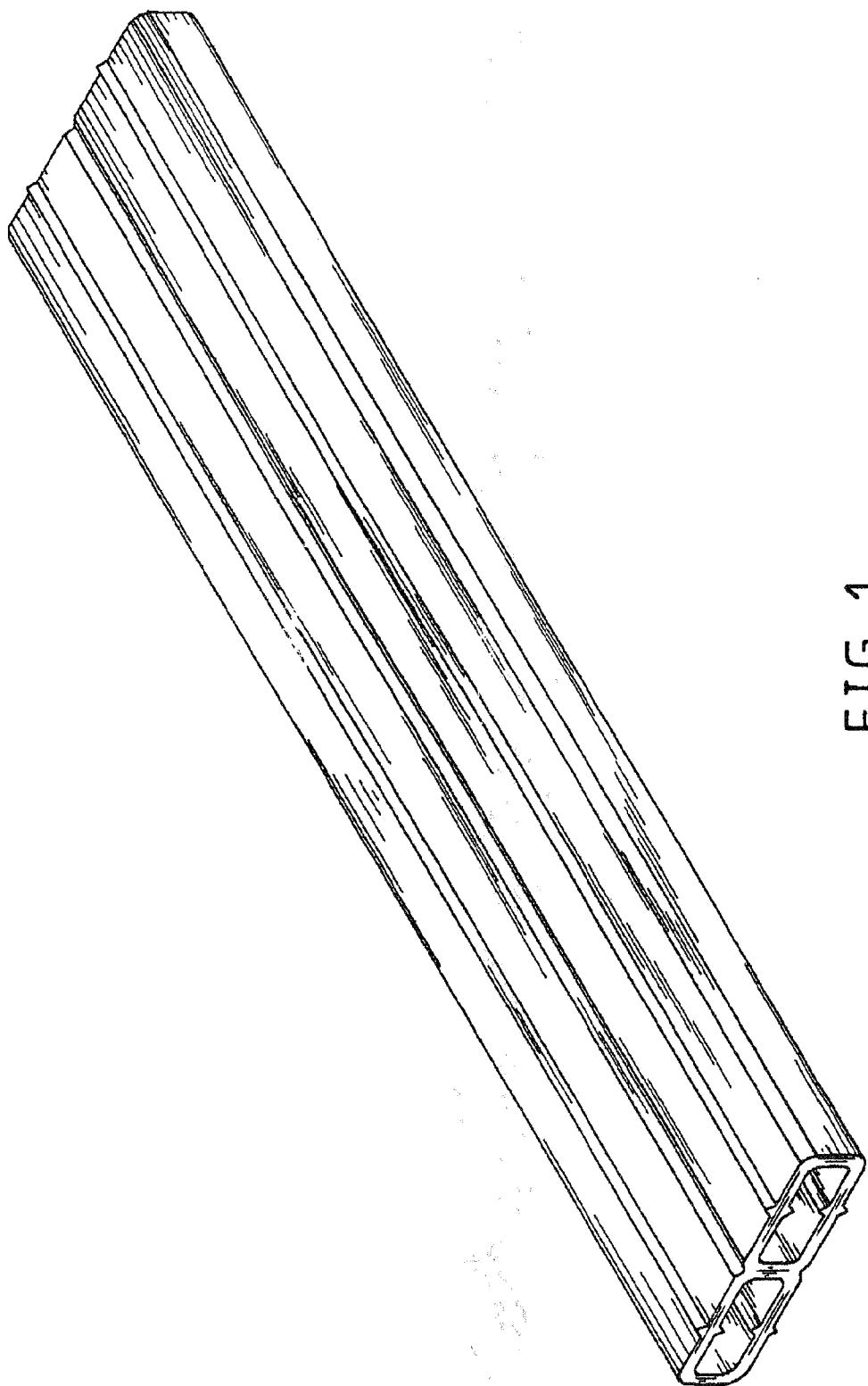


FIG. 1

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FIG. 2



FIG. 3

U.S. Patent

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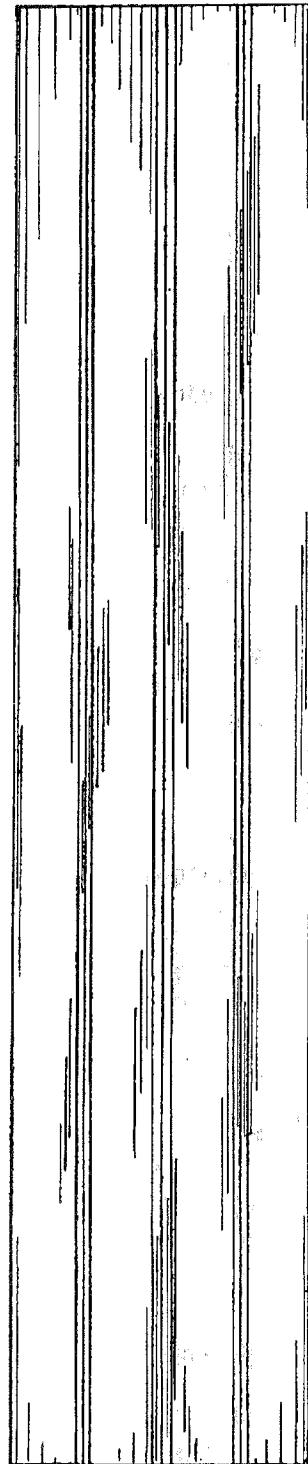


FIG. 4

U.S. Patent

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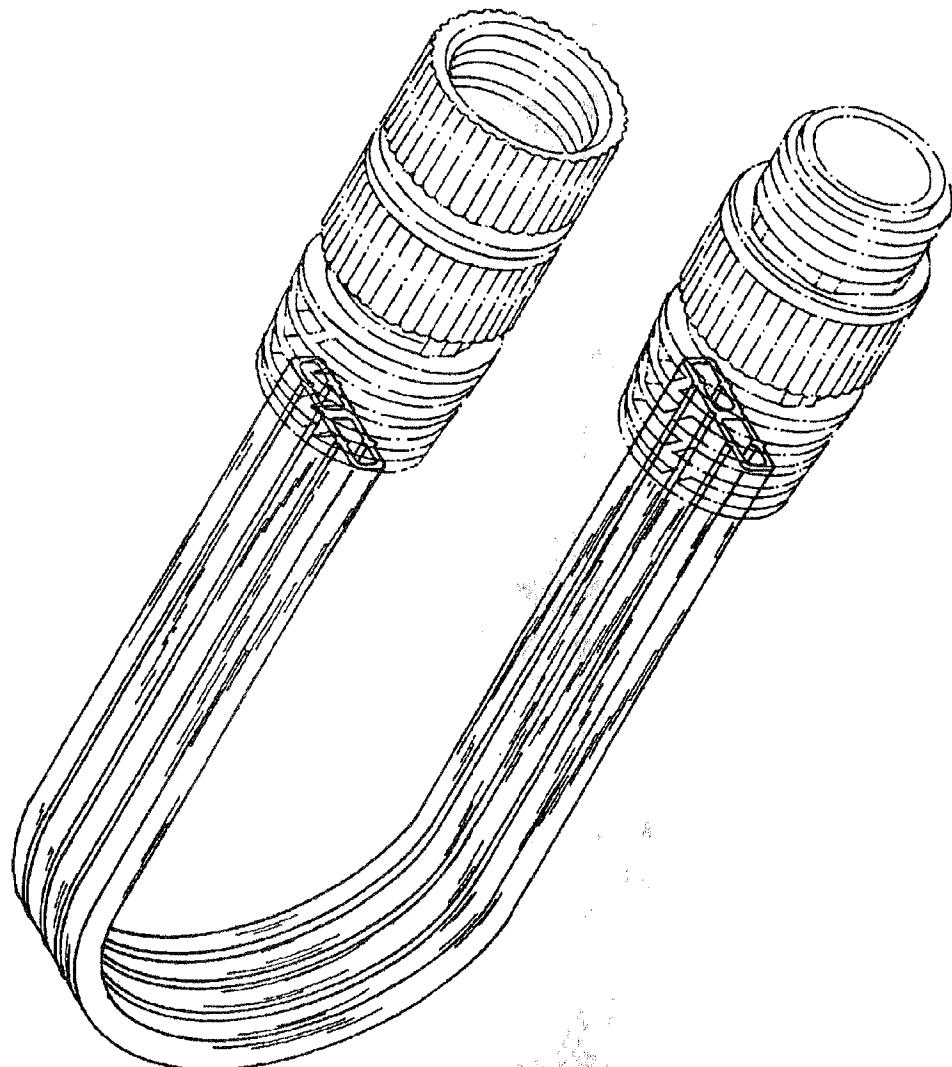


FIG.5



US 20050077729A1

(19) United States

(12) Patent Application Publication (10) Pub. No.: US 2005/0077729 A1
(43) Pub. Date: Apr. 14, 2005

(54) COMBINATION OF HOSE AND HOSE CONNECTOR

(52) U.S. Cl. 285/399

(76) Inventor: Huong Huong Fu, Chang-Hua Hsiang (TW)

(57) ABSTRACT

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Third Floor
90 John Street
New York, NY 10038 (US)

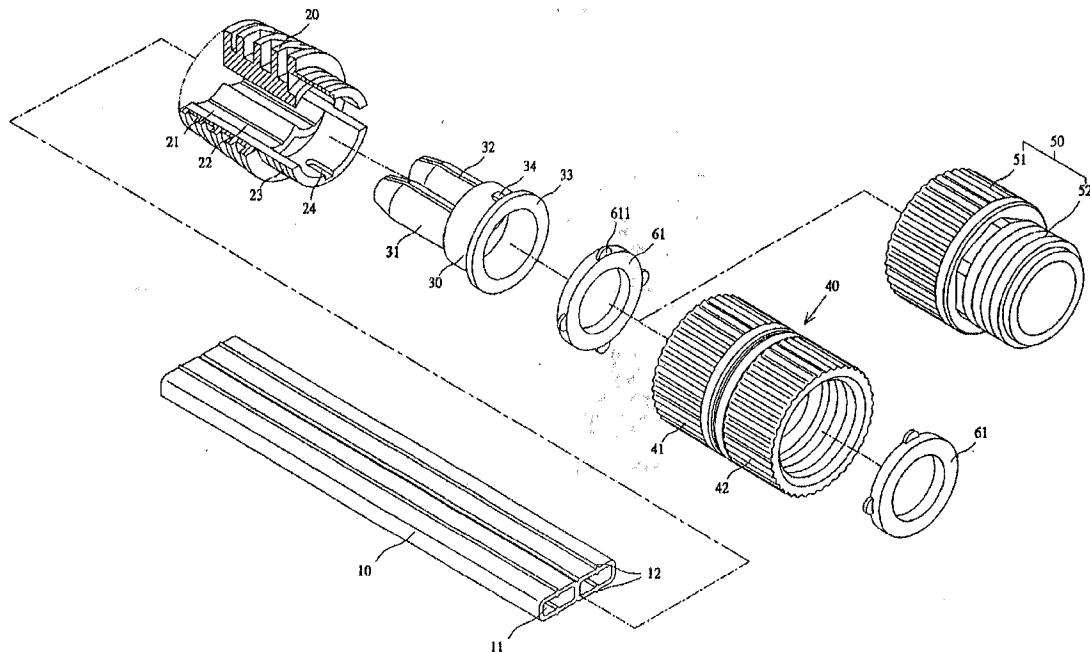
(21) Appl. No.: 10/675,964

(22) Filed: Sep. 30, 2003

Publication Classification

(51) Int. Cl.⁷ F16L 21/00

A hose combination includes a flat hose having a first passage and each of two opposite insides of the first passage and two opposite outsides of the hose have a flange extending longitudinally therefrom. A connector includes a first part having a second passage defined therethrough and the hose is inserted in a first end of the first part. Two first grooves are defined in an inside of the second passage so as to receive the first flanges on the outside of the hose. A second part has a tubular portion which is inserted in the first passage and has second grooves defined in an outside thereof so as to receive the flanges on the two opposite insides of the first passage. A threaded neck extends from a second end of the first part and is connected to a third part to which a sprinkler is connected.



Affirmative Defense
Exhibit 2

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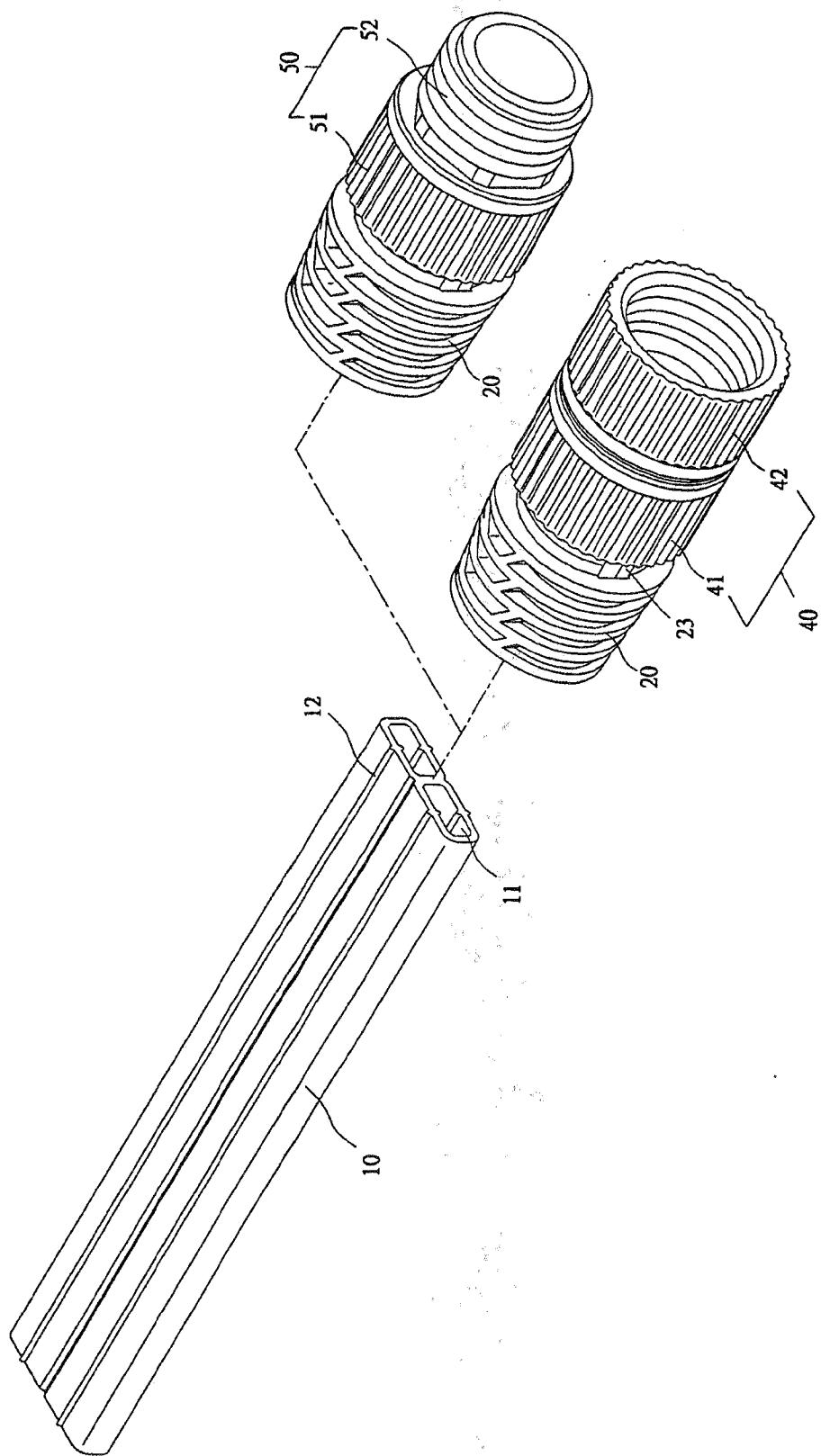


FIG. 1

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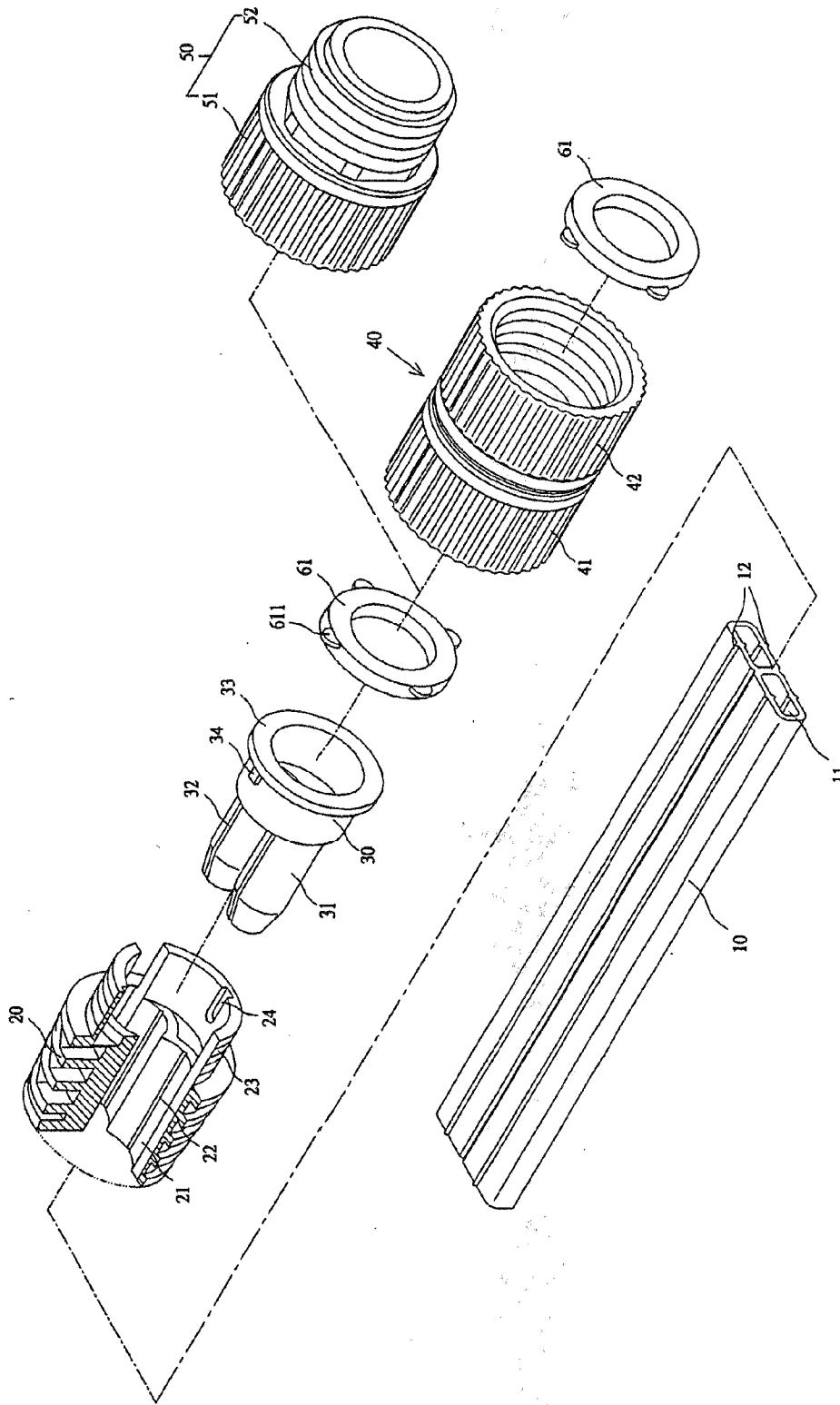


FIG. 2

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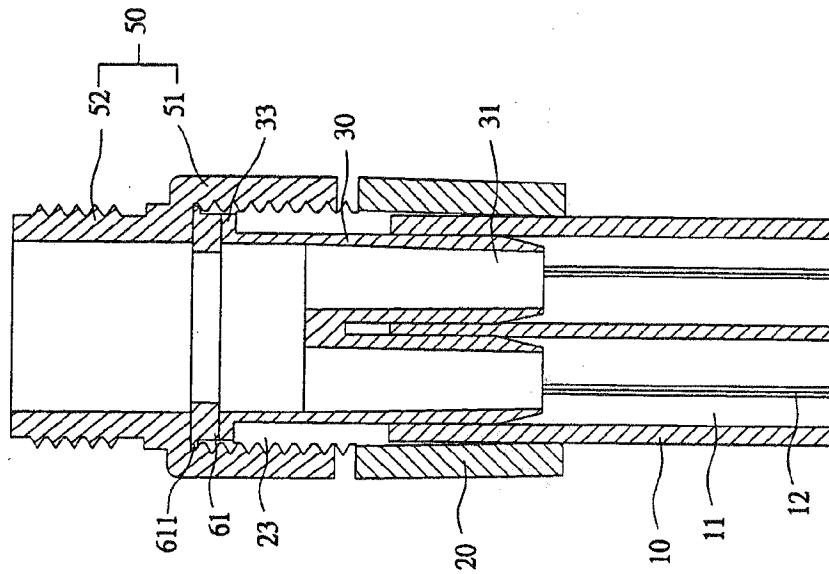


FIG. 4

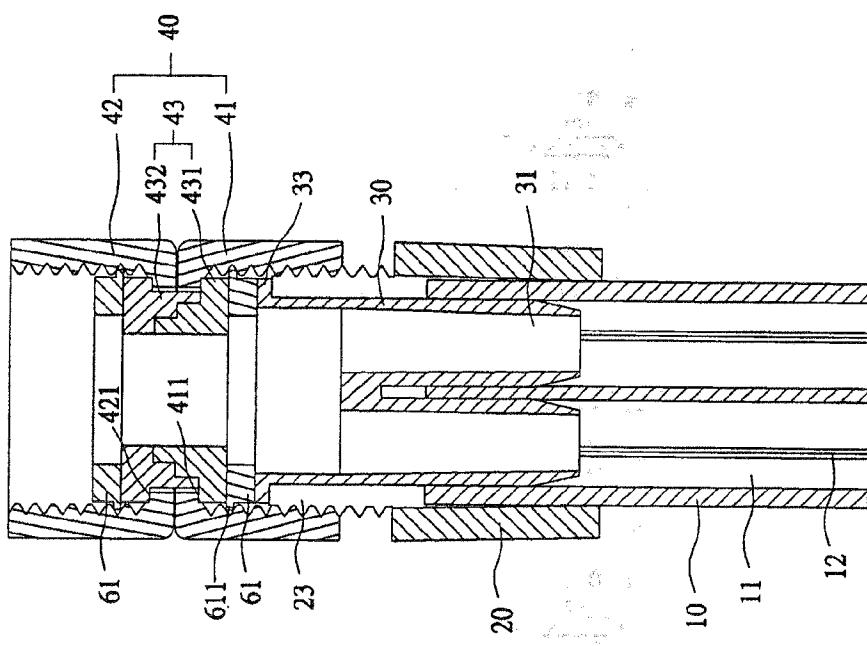


FIG. 3

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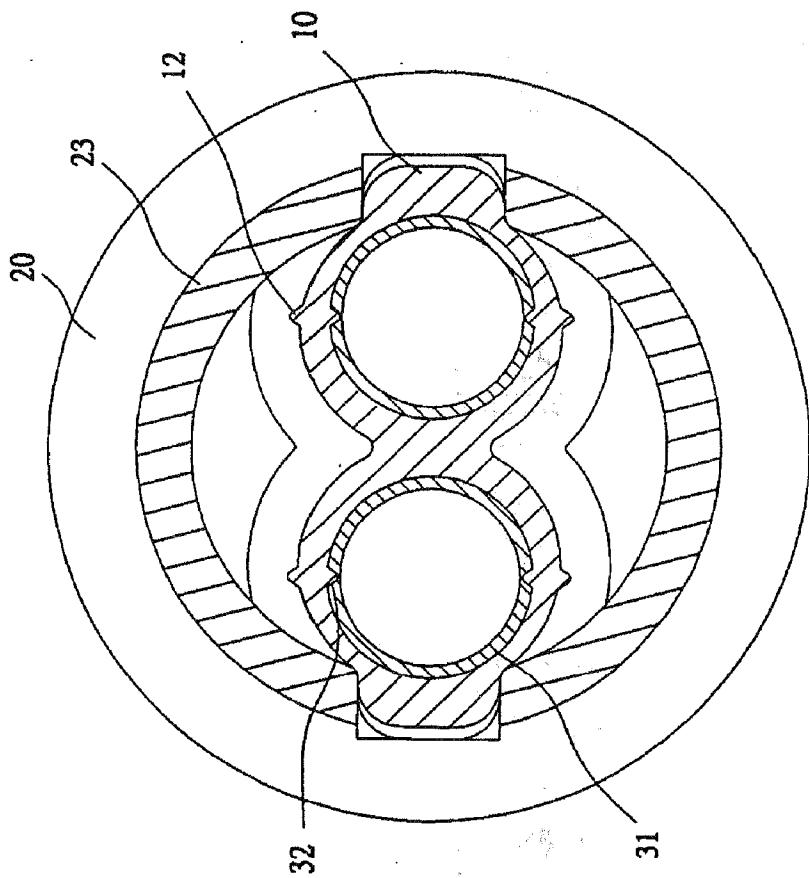


FIG. 5

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COMBINATION OF HOSE AND HOSE CONNECTOR

FIELD OF THE INVENTION

[0001] The present invention relates to a flat hose with passages defined therethrough and flanges extending from an outside and inside of the passages, and a hose connector which is securely connected to the hose.

BACKGROUND OF THE INVENTION

[0002] A conventional hose generally has a circular cross section and a passage is defined through the hose so that water flows in the passage. Nevertheless, it is experienced that the circular hose tends to be twisted or bent so that the area that allows the water to flow is reduced and this results high pressure at the faucet end and leakage is found at that end. Furthermore, when retrieving the hose, the section that is close to the faucet is bent at the same spot where the plastic hosing of the hose tends to be broken. The circular hose occupies larger space and is not convenient for those who have limited space for storing the hose. A hose connector is fixedly connected to an end of the hose so that a sprinkler and/or faucet can be connected to the connector by threads. The user has to rotate the sprinkler to be connected to the connector and this is not convenient for the user.

[0003] The present invention intends to provide a combination of a hose and a hose connector wherein the hose is a flat hose which occupies less space and the connector is securely connected to the flat hose without worry of leakage.

SUMMARY OF THE INVENTION

[0004] In accordance with one aspect of the present invention, there is provided a hose combination which comprises a flat hose having a first passage and each of two opposite insides of the first passage and two opposite outsides of the hose have a flange extending longitudinally therefrom. A connector is composed of a first part, a second part and a third part. The first part has a second passage and the hose is inserted in a first end of the first part. Two first grooves are defined in an inside of the second passage so as to receive the first flanges on the outside of the hose. A second part has a tubular portion which is inserted in the first passage and has second grooves defined in an outside thereof so as to receive the flanges on the two opposite insides of the first passage. A threaded neck extends from a second end of the first part and is connected to a third part.

[0005] The present invention will become more obvious from the following description when taken in connection with the accompanying drawings which show, for purposes of illustration only, a preferred embodiment in accordance with the present invention.

BRIEF DESCRIPTION OF THE DRAWINGS

[0006] FIG. 1 is an exploded view to show the hose and the connector of the present invention;

[0007] FIG. 2 is an exploded view to show the connector of the present invention;

[0008] FIG. 3 is a cross sectional view to show the first embodiment of the connector connected to the hose;

[0009] FIG. 4 is a cross sectional view to show the second embodiment of the connector connected to the hose, and

[0010] FIG. 5 is an end cross sectional view to show the combination of the hose and the connector.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

[0011] Referring to FIGS. 1 and 2, the hose combination of the present invention comprises a flat hose 10 having two first passages 11 defined therethrough. Each of two opposite insides of the first passages 11 and two opposite outsides of the hose 10 have a flange 12 extending longitudinally therefrom.

[0012] A connector is composed of a first part 20, a second part 30 and a third part 40 which is used to connect a sprinkler or a faucet. The first part 20 has a second passage 21 defined therethrough and the hose 10 inserted in a first end of the first part 20. The second passage 21 is formed into two parallel portions so as to correspond the two first passages 11. Two first grooves 22 defined in an inside of each portion of the second passage 21 so as to receive the first flanges 12 on the outside of the hose 10. A threaded neck 23 extends from a second end of the first part 20 and has a notch 24 defined in an inside thereof.

[0013] Further referring to FIG. 5, the second part 30 has two tubular portions 31 on one end thereof and each tubular portion 31 has a circular cross section. The two tubular portions 31 are inserted in the two first passages 11. Each tubular portion 31 has second grooves 32 defined in an outside thereof so as to receive the flanges 12 on the two opposite insides of the first passage 11 corresponding to the tubular portion 31. An end flange 33 is located at the other end of the second part 30 and has a tongue 34 which is engaged with the notch 24.

[0014] The third part 40 may have two embodiments wherein as shown in FIG. 3, the third part has a first portion 41 and a second portion 42. Each of the first portion 41 and the second portion 42 has an open end which includes a threaded inner periphery. The threaded inner periphery of the first portion 41 is connected to the threaded neck 23. Each of the first portion 41 and the second portion 42 has a connection piece 431/432 which is positioned by the end flange 411/421 of the first portion 41/second portion 42. Both of the connection pieces 431, 432 have stepped structure which is engaged with each other such that the first portion 41 and the second portion 42 are rotatable relative to the two respective connection pieces 431, 432, and the first portion 41 and the second portion 42 are independently rotatable from each other. Seals 61 are installed in the first portion 41 and the second portion 42 so as to prevent from leakage. Each seal 61 includes a protrusion 611 which is engaged with the threads of the threaded inner periphery of the open end of each of the first portion 41 and the second portion 42. The second portion 42 is able to connect a faucet or sprinkler.

[0015] Referring to FIG. 4, the other embodiment of the third part 40 includes a first portion 51 and a second portion 52 which is integrally formed with the first portion 51. The first portion 51 has an open end which has a threaded inner periphery so as to be connected to the threaded neck 235. The second portion 52 has a threaded outer periphery so as to be connected to a faucet or sprinkler.

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[0016] While we have shown and described the embodiment in accordance with the present invention, it should be clear to those skilled in the art that further embodiments may be made without departing from the scope of the present invention.

What is claimed is:

1. A hose combination comprising:

a flat hose having a first passage defined therethrough, each of two opposite insides of the first passage and two opposite outsides of the hose having a flange extending longitudinally therefrom, and

a connector comprising a first part having a second passage defined therethrough and the hose inserted in a first end of the first part, two first grooves defined in an inside of the second passage so as to receive the first flanges on the outside of the hose, a second part having a tubular portion which is inserted in the first passage and has second grooves defined in an outside thereof so as to receive the flanges on the two opposite insides of the first passage, a threaded neck extending from a second end of the first part and being connected to a third part.

2. The combination as claimed in claim 1, wherein the threaded neck of the first part has a notch defined in an inside thereof and the second part has an end flange having a tongue which is engaged with the notch.

3. The combination as claimed in claim 1, wherein the third part has a first portion and a second portion, each of the first portion and the second portion having an open end which includes a threaded inner periphery, the threaded inner periphery of the first portion being connected to the threaded neck, the first portion and the second portion being independently rotatable from each other.

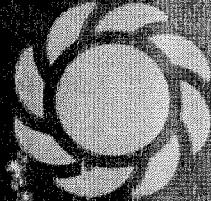
4. The combination as claimed in claim 3, wherein each of the first portion and the second portion has a connection piece connected thereto and the first portion and the second portion are rotatable relative to the two respective connection pieces, the two connection pieces being engaged with each other.

5. The combination as claimed in claim 1, wherein the third part includes a first portion and a second portion, the first portion having an open end which has a threaded inner periphery connected to the threaded neck, the second portion has a threaded outer periphery.

6. The combination as claimed in claim 1, wherein the tubular portion has a circular cross section.

7. The combination as claimed in claim 4, wherein two seals are installed in the first portion and the second portion of the third part respectively, each seal including a protrusion which is engaged with threads of the threaded inner periphery of the open end of each of the first portion and the second portion.

* * * * *



GARDENA®

Gardening Equipment '88



combi-system	2-8
combi-system Hand Tools	9-10
Hand Tools, Accessories	11-12
Hand Lawn Mowers	
Electric Vertical Cutter	13
Original GARDENA System	14-18
Soft Sprayers	19-20
happy-garden Fertilizer Spraying	21-22
clean-system, Wash Brushes	23-25
High-pressure Cleaner	26-27
Sprinklers	28-32
economic-system	33-34
Sprinkler-System, Pipeline	35-37
Hoses, Hose Trolleys	38-39
Pumps	40-42
Plant Protection Sprayers	43
Spreader Trolleys	44
Shears and Secateurs	45-48
Turbotrimmers	49
Accu Shears	50-51
Electric Hedge Trimmers	52-53
multiclick	54-55

Affirmative Defense

Exhibit 3

The GARDENA Oscillating Sprinklers

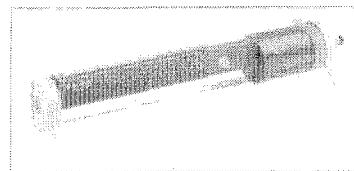
- Infinitely adjustable angle of operation
- Patented turbo-drive gear
- Even distribution of water – operates from 1 bar (14.5 P.S.I.)
- According to international practice, the performance data refer to 4 bar (56 P.S.I.) pressure into the sprinkler

the following:

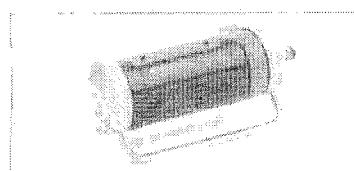
- Convenient drain screw with cleaning pin
- Maintenance-free, corrosion-resistant
- 12-month guarantee
- Presentation: informative, 4-colour pack

**GARDENA
Oscillating
Sprinklers**

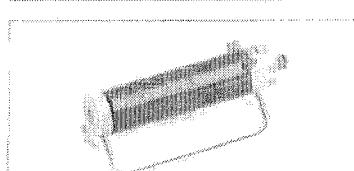
Article 940

Article designation
in pack

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design
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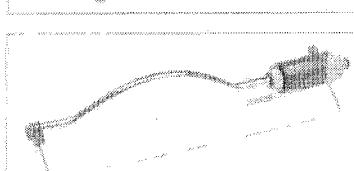
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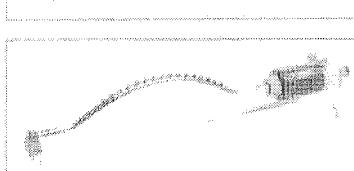
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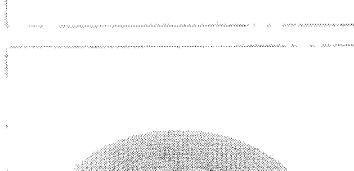
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GARDENA
WAREHOUSE
DIRECT
Salesdesign
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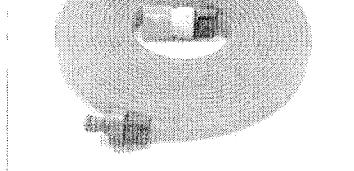
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993



995



996

GARDENA Oscillating Sprinkler "Excellent"

- The best possible water distribution is provided by precision set rows of nozzles
- Coverage: max. 300 m² (3229 sq. ft.)
- Range of spray: max. 19 m (62 ft.)
- Width of spray: max. 16 m (52 ft.)

GARDENA Oscillating Sprinkler "Julia"

- Coverage: max. 200 m² (2153 sq. ft.)
- Range of spray: max. 17 m (56 ft.)
- Width of spray: max. 12 m (39 ft.)

GARDENA Oscillating Sprinkler "Piccolo"

- Coverage: max. 130 m² (1397 sq. ft.)
- Range of spray: max. 15 m (49 ft.)
- Width of spray: max. 12 m (39 ft.)

GARDENA Oscillating Sprinkler "Polo"

- Coverage: max. 160 m² (1722 sq. ft.)
- Range of spray: max. 16 m (52 ft.)
- Width of spray: max. 10 m (33 ft.)

GARDENA Oscillating Sprinkler "Extra Polo"

- Coverage: max. 220 m² (2368 sq. ft.)
- Range of spray: max. 17 m (56 ft.)
- Width of spray: max. 13 m (42 ft.)

GARDENA Oscillating Sprinkler "Super Polo"

- Coverage: max. 260 m² (2799 sq. ft.)
- Range of spray: max. 19 m (62 ft.)
- Width of spray: max. 14 m (46 ft.)

GARDENA Sprinkler Hose

- Produces fine spray for beds, borders, narrow areas and shrubs
- Divided into three chambers running lengthways with fine spray outlets – for sprinkling and watering
- Extremely flat – eliminates risk of twisting during use
- Can be cut to length. Simply cut as required and connect GARDENA System attachments
- Can be extended by connecting two hoses
- Supplied in reels with informative 4-colour display disc
- Length 7.5 m (24.6 ft.)
- Length 15 m (49.2 ft.)

